

FILED  
DISTRICT COURT  
DUCHEESNE COUNTY, UTAH

JUN 10 2009

JOANNE MCKEE, CLERK  
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JUN 16 2009

ATTORNEY GENERAL  
Natural Resources Division

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Vernal, Utah 84078  
Telephone (435)789-4908

IN THE EIGHTH JUDICIAL DISTRICT COURT OF DUCHESNE COUNTY  
STATE OF UTAH

IN THE MATTER OF THE GENERAL	)	ORDER APPROVING THE 2008
DETERMINATION OF ALL THE	)	COMMISSIONER'S REPORT, 2009
RIGHTS TO THE USE OF WATER	)	BUDGET AND APPOINTING THE 2009
BOTH SURFACE AND UNDERGROUND	)	RIVER COMMISSIONER FOR THE
WITHIN THE DRAINAGE AREA OF	)	LAKE FORK RIVER, YELLOWSTONE
THE UINTAH BASIN IN UTAH	)	RIVER AND SAND WASH CREEK
	)	
	)	Docket No. 3070
	)	Judge John R. Anderson
	)	

This matter came before the Court on the PETITION TO APPROVE 2008 COMMISSIONER'S REPORT, 2009 BUDGET AND SCHEDULE OF ASSESSMENTS, 2009 SCHEDULE OF DISTRIBUTION AND REQUEST TO APPOINT THE 2009 RIVER COMMISSIONER FOR THE LAKE FORK RIVER AND YELLOWSTONE RIVER AND SAND WASH CREEK, filed by Lynn Burton, Chairman of the Committee for the Lake Fork River, Yellowstone River and Sand Wash Creek, pursuant to Utah Code Ann. §73-5-1 et. seq., petitioning the Court to approve the committee's 2008 report, 2009 budget, appoint a River Commissioner for 2009, authorize it to appoint an interim River Commissioner and approve its 2009 Schedule of Distribution of Waters of Lake Fork River, Yellowstone River and Sand Wash Creek.

The Court having considered the matter, notice having been given to affected parties, and the Court being fully informed in this matter, enters this order.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the 2008 report of the administration of the waters of the Lake Fork River, Yellowstone River and Sand Wash Creek is approved, as submitted and filed herewith.

2. That the 2009 budget, with schedule of assessments, is approved, as submitted and attached hereto as "Exhibit A".

3. That Leland L. Carter is appointed to serve as River Commissioner of the Lake Fork River, Yellowstone River, and Sand Wash Creek, for a period of one (1) year.

4. That the Committee for the Lake Fork River, Yellowstone River, Sand Wash Creek is authorized to appoint a temporary replacement should the River Commissioner be unable to complete the one (1) year term.

5. That the proposed 2009 Schedule of Distribution of Waters of the Lake Fork River, Yellowstone River, and Sand Wash Creek is approved, as submitted and attached hereto as "Exhibit B".

6. That the following provisions set forth in the 1998 Interim Order be reaffirmed and made effective for the year 2009:

a. That the River Commissioner be directed to distribute the water of the streams and reservoirs involved in accordance with this Court's Interim Order and to do all things necessary for the

proper and correct measurement, diversion and distribution of said waters, in accordance with the Decrees of the Federal District Court and state laws.

b. That the River Commissioner is directed to confer with the committee in developing a schedule for distribution of water, specifically, the manner in which the waters of the Lake Fork River, Yellowstone River and Sand Wash Creek, and their tributaries, should be distributed, after consultation with the State Engineer, and shall submit an annual Interim Distribution Order to this Court for its consideration.

c. That the River Commissioner is directed to deliver and distribute the waters of such non-Federal water rights in the Lake Fork River, Yellowstone River, and Sand Wash Creek, in accordance with the proposed Schedule of Distribution, attached hereto as "Exhibit B".

d. That the waters for the Federal and non-Federal water rights be distributed in accordance with the terms and limitations of the 1923 Federal Court Decrees in cases numbered 4437 and 4418.

e. That the River Commissioner is instructed to work with the committee to prepare a recommended budget for the next year. Said recommended budget is to contain assessments to be made, monies to be received, along with a report of expenditures.

f. That the River Commissioner is authorized to manage the budget, to implement the ordered assessments and collection of

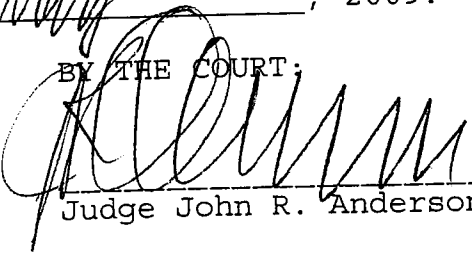
assessed amounts from the non-Federal water user organizations or water users, and request assessment and collection from the Bureau of Indian Affairs on the Uintah Indian Irrigation Project, in accordance with the approved budget and schedule of assessments.

g. That any person or entity, that is a water user in the subject rivers, or otherwise affected by the actions of the River Commissioner, may petition and appear before this Court (about the assessment amounts, the manner in which the water is distributed and/or any other claim relating to the distribution of water). In the event there is a violation of the Court's Order or any part of this Petition or, in the opinion of the River Commissioner, the occurrence of the unauthorized use of water, the River Commissioner is directed to recommend to this Court a solution to the problem, including any remedy to be imposed on the unauthorized water user or violator of the Order.

h. That if a non-Federal water user fails to pay any assessments levied, when due, that water users further use of water be prohibited.

DATED this 28 day of MAY, 2009.

BY THE COURT:

  
\_\_\_\_\_  
Judge John R. Anderson

MAILING CERTIFICATE

I, Tina L. Hemstreet, an employed by the office of McKeachnie Law Offices, P. C. attorneys for Petitioners herein and hereby certify that I served the attached ORDER APPROVING THE 2008 COMMISSIONER'S REPORT, 2009 BUDGET, AND APPOINTING THE 2009 RIVER COMMISSIONER FOR THE LAKE FORK RIVER, YELLOWSTONE RIVER AND SAND WASH CREEK by placing a true and correct copy thereon in an envelope addressed to:

LYNN BURTON  
COMMITTEE CHAIRMAN  
STAR ROUTE BOX 140  
TALMAGE UT 84073

JOHN K MANGUM  
ASSISTANT U S ATTORNEY  
185 S STATE STE 400  
SALT LAKE CITY UT 84111

WILLIAM R MCCONKIE  
OFFICE OF THE SOLICITOR  
125 S STATE STREET  
SALT LAKE CITY UT 84138

LEE SIMMS  
WATER RIGHTS DIVISION  
P O BOX 146300  
SALT LAKE CITY UT 84114-6300


ASSOCIATED WATER USERS  
DRY GULCH IRRIGATION  
P O BOX 265  
ROOSEVELT UT 84066

NORMAN JOHNSON  
ASSISTANT ATTORNEY GENERAL  
1594 WEST NORTH TEMPLE #300  
SALT LAKE CITY UT 84114-6300

LYNN HANSEN  
IRRIGATION SYSTEMS MANAGER  
UINTAH AND OURAY AGENCY  
P O BOX 130  
FT DUCHESNE UT 84026

LELAND L CARTER  
RIVER COMMISSIONER  
P O BOX 4  
ROOSEVELT UT 84066

and deposited the same, sealed, with first class postage prepaid thereon, in the United States mail at Vernal, Utah, on the 15 day of June, 2009.

  
Tina L. Hemstreet

# **Assessment for 2009 Budget**

Appropriator	2008 Amount Diverted Ac.Ft.	2009 Assessment
Crystal Ranch	9	\$ 3.79
Dry Gulch Irr. Co		
Uintah Area	16,048	\$ 6,765.42
Lake Fork Area	57,025	\$ 24,040.25
Farnsworth Canal & Res. Co.	21,895	\$ 9,230.36
Hanson, Gordon Family	50	\$ 21.08
Hartman, J. Bruce	362	\$ 152.61
Lake Fork Irr. Co.	4,173	\$ 1,759.23
Lake Fork Western Irr. Co.	4,236	\$ 1,785.79
Lusty Cattle Inc.	17	\$ 7.17
Monarch Canal & Res. Co	227	\$ 95.70
Roosevelt City	428	\$ 180.43
Rowley Ditch	14	\$ 5.90
Sandwash Irrigation Co.	1,946	\$ 820.38
South Boneta Ditch Co.	1,241	\$ 523.17
TN Dodd Irr. Co.	627	\$ 264.33
Uteland	2,350	\$ 990.70
 Total Associated Water	 110,648	 \$ 46,646.30
 Uintah Project	 41,342	 \$ 17,428.70
 Total Entire System	 151,990	 \$ 64,075.00

## Approved Budget 2009

	2009 Year
Salary	\$ 41,000.00
Off river automation costs	\$ 2,000.00
Milage	\$ 8,190.00
F.I.C.A	\$ 3,300.00
Unemployment	\$ 450.00
Workers Comp. Insurance	\$ 1,750.00
Office Supply	\$ 200.00
Association Of Water Users	\$ 1,375.00
Equipment, Repairs, Etc	\$ 1,500.00
Office O & M	\$ 2,000.00
Publish Annual Report	\$ 160.00
Phone	\$ 900.00
Property Misc.	\$ 100.00
Retirement	\$ -
Legal Fees	\$ 1,150.00
	-----
Total	\$ 64,075.00
Equipment, Repairs, Etc. remaining funds	\$ 5,790.37 *

\*remaining funds of Equipment, Repairs, Ect will be used to pay off 2025 automation obligations

# LAKE FORK DISTRIBUTION

W/R#	Appl. #	Cert. #	Appropriator	Priority Date	Flow cfs	Storage at	Use	Canal	Source	Irrig. Ac.
43-3089	2883	1746	Dry Gulch Irrigation	12/18/1909	2.67		IRR/DOM	Payne Canal	EF Lake Fork	205.95
43-1695	3198	398	Clark & Ada M. Lusty	05/09/1910	1.08		IRR	Hamilton Ditch	Lake Fork	76.06
43-3098	3369	1745	Dry Gulch Irrigation	07/06/1910	42.00		IRR	Diverting Dam	Yellowstone	2860.91
43-3099	3466	1584	Uteland Ditch/Danek	08/20/1910	5.26		IRR	Uteland Canal	Lake Fork	368.18
13-3103	3575	1499	So. Bonela Irrig. Co.	10/06/1910	8.80		IRR	So. Bonela Ditch	Lake Fork	616.73
43-2535	3652		First Security Bank	12/29/1910		14000	IRR	Moon Lake Reservoir	WF Lake Fork	70000.01
43-3106	3800a	949	Uteland Ditch Co.	02/25/1911	0.83		IRR	Uteland Ditch	Lake Fork	57.93
43-3117	4203	1749	Lake Fk Irrigation Co.	08/26/1911	12.00		IRR	Ditch	Lake Fork	1061.67
43-3122	4614	868	Arthur Barney	04/12/1912	0.36		IRR	Ditch	Lake Fork	25.11
43-3123	4684	2010	Moon Lake Water Us	05/22/1912		730	IRR	Clement Lake	Lake Fork	1587.08
43-3125	4872	474	Sharpstone	09/26/1912	1.50		IRR	Crystal Ditch	Yellowstone	101.91
43-3130	5061	1617	Bryant Gilbert	02/13/1913	0.26		IRR	Ditch	Lake Fork	18.41
43-3138	5662	701	Ephraim Lambert	03/26/1914	15.00		Flour Mill	Headgate & Ditch	Lake Fork	4776.1
43-1710	6355	2252	Moon Lake Water Us	07/28/1915		851.2	IRR	Farnsworth Canal	WF Lake Fork	4852.3
43-1709	6353	2251	Moon Lake Water Us	07/28/1915		759	IRR	Kidney/Brown Duck	WF Lake Fork	4776.1
43-1717	6356	2253	Moon Lake Water Us	07/28/1915		1500	IRR	Farnsworth Canal	WF Lake Fork	70000.01
43-2533	7104		First Security Bank	01/22/1917		25000	IRR	Moon Lake Reservoir	WF Lake Fork	18.61
43-3154	7130	1017	Uteland Ditch/Waugh	01/22/1917	0.15		IRR	Purdy Ditch	Lake Fork	37.49
43-3206	10124	2050	Uteland Ditch Co.	03/04/1917	0.59		IRR	Purdy Ditch	Lake Fork	2860.91
43-3165	7645	1864	Moon Lake Water Us	02/25/1918		115	IRR	Water Lily Lake	Yellowstone	4887.2
43-1716	7901	2254	Moon Lake Water Us	11/07/1918		1700	IRR	Farnsworth Canal	WF Lake Fork	2860.91
43-3164	7644	1863	Moon Lake Water Us	03/24/1919		334	IRR	Farmers Lake	Yellowstone	70000.01
43-2532	8386a		Farnsworth Canal Co.	11/18/1919		1350	IRR	Twin Pals Reservoir	Lake Fork	70000.01
2534	8532		Moon Lake Water Us	05/03/1920		2500	IRR	Twin Pals Reservoir	WF Lake Fork	
43-3096	3268	1102	Moon Lake Water Us	03/14/1921	25.00		MUN	Headgate	Lake Fork	261.2
43-3069	1711	1747	Uintah Power & Light	05/12/1924	4.00		IRR	Payne Canal	Yellowstone	392.2
43-3201	9799		Dry Gulch Irrigation	05/12/1924		640	IRR	Drift, Bluebell, Spider	Yellowstone	2860.9
43-3200	9796	1866	Moon Lake Water Us	08/17/1925		30	IRR	White Miller Lake	Yellowstone	2860.9
43-3196	9628	1865	Moon Lake Water Us	05/11/1926		104	IRR	Deer Lake	Yellowstone	42.9
43-3192	9383	2272	Moon Lake Water Us	04/27/1928	2.28		IRR	Rowley Ditch	Lake Fork	86.0
43-1699	3945	2173	Geo. E. Fisher Jr.	11/29/1929	1.80		IRR	Rowley Ditch	Lake Fork	
43-467	13412		I. Warren Odekirk	01/16/1934	2.00		D M	Ditch	Lake Fork	None
43-5098	13900a		Mylon City	03/04/1940		620	IRR	East & Middle Timothy	Trib. Yellowstone	90000.0
43-3245	13233	4490	Moon Lake Water Us	11/09/1940	1.59		IRR	Ditch	Trib. to Lake Fork	141.6
43-3333	17978		Rue Miles	12/08/1942	330.00		Irr/Stock	Sandwash/Browns Dr	Yellowstone & Lake Fork	73000.0
43-3239	13056	5889	Moon Lake Water Us	08/13/1946			Power	Dam and Pipes	Yellowstone	6680.0
43-2538	8298		Moon Lake Water Us	02/29/1952	66.22		IRR	Superior Lake	Yellowstone	6680.0
43-2501	8300		Moon Lake Water Us	08/08/1953		400	IRR	Five Point Lake	Yellowstone	151.0
			Moon Lake Water Us	08/08/1953		500	IRR			
			Moon Lake Water Us	07/07/1958	2.50	88.7	IRR		Trib. to Lake Fork	



# LAKE FORK DISTRIBUTION

WR#	Appl. #	Cert. #	Appropriator	Flow		Storage	Use	Canal	Source	Irrig. Ac.
				Priority Date	cfs	af				
43-3013	360	1231	Indian Irrigation Servi	01/01/1861	140.06		IRR	Lake Fork Canal	Lake Fork	9701.43
43-3020	402	1171	Indian Irrigation Servi	01/01/1861	17.05		IRR	Lake Fork Canal	Lake Fork	1207.86
43-3014	360a	1215	Indian Irrigation Servi	01/01/1861	1.89		IRR	Payne Canal	Yellowstone	493.21
43-1682	359	1213	Indian Irrigation Servi	01/01/1861	62.20		IRR	Dry Gulch Canal	Lake Fork	4245.79
43-1683	359a	1214	Indian Irrigation Servi	01/01/1861	21.05		IRR	Red Cap Canal	Lake Fork	8751.74
43-1684	366	1217	Indian Irrigation Servi	01/01/1861	110.00		IRR	Red Cap Canal	Lake Fork	8751.74
-1685	385	1220	Indian Irrigation Servi	01/01/1861	5.81		IRR	Dry Gulch Canal	Lake Fork	393.42
43-1686	403	1228	Indian Irrigation Servi	01/01/1861	3.30		IRR	Dry Gulch Canal	Lake Fork	230.36
43-3021	402a	1175	Indian Irrigation Servi	01/01/1861	0.33		IRR	Uteiland Ditch	Lake Fork	24.57
43-3022	403a	1229	Indian Irrigation Servi	01/01/1861	6.00		IRR	Payne Canal	Yellowstone	493.21
43-3028	416c	1669	Lake Fk Irrigation Co.	07/31/1905	1.57		IRR/DOM	Dry Gulch #2 Canal	Lake Fork	117.71
43-3023	416	2059	Dry Gulch Irrigation	07/31/1905	42.00		IRR	Dry Gulch #1 Canal	Lake Fork	5827.37
43-3026	416b	2045	Dry Gulch Irrigation	07/31/1905	68.50		IRR/DOM	Dry Gulch #2 Canal	Lake Fork	9587.38
43-3027	416b-1	2071	Lake Fk Irrigation Co.	07/31/1905	13.50		IRR	Dry Gulch #2 Canal	Lake Fork	1008.51
43-3025	416a-1	2061	Dry Gulch Irrigation	07/31/1905	14.20		IRR	Dry Gulch #1 Canal	Lake Fork	1920.18
43-3024	416a	2060	Dry Gulch Irrigation	07/31/1905	19.00		IRR	Dry Gulch #1 Canal	Yellowstone & Lake Fork	2660.78
43-10375	438a	2070	Dry Gulch Irr/Mitchell	08/19/1905	98.20	70	FC/Stock	6 Reservoirs	Lake Fork	23.33
43-3029	438a	2070	Dry Gulch Irrigation	08/19/1905	107.71		IRR	Dry Gulch #2 Canal	Lake Fork	11633.61
43-2503	438	2069	Dry Gulch Irrigation	08/19/1905	52.40	9204	IRR	Payne Canal	Lake Fork	12519.71
43-3030	460	2265	Dry Gulch Irrigation	08/29/1905	3.10	651	IRR	DG#1/DG#2/Payne	Lake Fork	3068.01
43-11107	460	1850	Dry Gulch Irr/Sky Vie	08/29/1905	7.50		IRR	Lake Fork Canal No. 1	Lake Fork	217.01
43-3031	460a	153	Lake Fk Irrigation Co.	09/08/1905	2.00		IRR	Lake Fork Canal	Lake Fork	613.26
43-1687	491	460	Clark & Ada M. Lusly	04/26/1906	0.74		IRR	Dry Gulch #2 Canal	Lake Fork	128.86
3056	883a	460	Uteiland Ditch Co.	04/26/1906	3.80		IRR	Hamilton Ditch	Lake Fork	44.41
43-3055	883	425	Purdy, Hardy, Solomo	04/26/1906	1.97		IRR	Uteiland Ditch	Lake Fork	228.91
43-3032	498	389	Lake Fk Irrigation Co.	09/17/1906	28.00		IRR	Purdy Ditch	Lake Fork	158.01
43-3065	1226	880	Lake Fk Western Irr. C	03/02/1907	0.73		IRR	LF Western Canal	Lake Fork	2151.01
43-1690	1178	994	Clark & Ada M. Lusly	07/07/1907	4.00		IRR	Knudsen Ditch	Lake Fork	51.11
43-3068	1711	1471	Timothy/Goniotakis	01/07/1908	28.50		IRR/DOM	Payne Canal	Yellowstone	231.23
43-3071	1759	1422	Dry Gulch Irrigation	02/17/1908	1.20		IRR	Payne Canal	Lake Fork	2050.61
43-3073	1881	488	Uteiland Ditch Co.	05/25/1908		28	IRR	Uteiland Ditch	Lake Fork	102.21
43-10362	1931	1464	Allamont Land & Dev.	07/03/1908	111.78		FC/Stock	3 Reservoirs	WF Lake Fork	10950.73
43-1718	1931	1464	Farnsworth Canal Co.	07/03/1908			IRR	Farnsworth Canal	WF Lake Fork	
43-10363	1931	1464	Allamont Land & Dev.	07/03/1908		26.94	FC/Stock	2 Reservoirs	WF Lake Fork	
43-1691	2040	999	Uteiland Ditch Co.	08/20/1908	2.00		IRR	McAfee Ditch	Lake Fork	129.36
43-3077	2091	1411	Dry Gulch Irrigation	09/25/1908	9.00		IRR	Payne Canal	Yellowstone	633.7
43-3084	2548	836	Uteiland Ditch/Hagber	07/01/1909	7.11		IRR	Uteiland Ditch	Lake Fork	499.9
43-1719	2609	3152	Farnsworth Canal Co.	07/31/1909	25.22		IRR	Farnsworth Canal	WF Lake Fork	10950.73
					4.74		IRR	Purdy Ditch	Lake Fork	120.9

# LAKE FORK DISTRIBUTION

WR#	Appl. #	Cert. #	Appropriator	Flow		Storage		Use	Canal	Source	Irrig. Ac.
				Priority Date	cfs	af	af				
43-3618	33361	6681	Grant Hansen	06/22/1961	4.95	5.29		IRR	Dam and Ditch	Trib. to Lake Fork	20.01
43-3616	33359	7276	Grant Hansen	06/22/1961	5.00	17.67		IRR	Dam and Ditch	Trib. to Lake Fork	66.66
43-3623	33740		Dean A. Reay	08/31/1961	1.65			Irr/Stock	Ditch	Trib. to Lake Fork	135.95
43-32	34707		Grant Hansen	11/09/1962		45		I S FC		Trib. to Lake Fork	66.25
43-3663	34707		Grant Hansen	11/09/1962		76		I S FC	Reservoir No. 1	Trib. to Lake Fork	59.25
43-31	34707		Grant Hansen	11/09/1962		60		I S FC		Trib. to Lake Fork	66.25
43-3703	35200		Grant Hansen	04/29/1963		18		IRR	Unnamed Reservoir	Trib. to Lake Fork	54.21
43-3825	36642		CUWCD	11/27/1964		50000		I/S/FC/R	Lake Fork Reservoir	Yellowstone & Lake Fork	37500.01
43-17	37704		Wildlife Resources	06/15/1966	3.00	1200		FC	Big Sand Wash Res	Yellowstone & Lake Fork	
43-3436	22936		Zanes Minerals	07/01/1969	1.75			IRR	Ditch	Trib. to Lake Fork	75.01

## PRIORITY SCHEDULE

BIG SAND WASH (REVISED APRIL 4, 1980)

RE: Adj.

Page

PRIORITY	FLOW	PERIOD OF USE	SOURCE & DITCH	APPL. NO. OR CERT. NO.	CLAIMANT	W.U. CLAIM NO.	TOTAL ACRES	CLAIMS USED FOR SAME ACREAGE	ACRE FEET	REMARKS
First Civil 1257	1.125	April-Oct. 31	Blood Draw Irr. to Sand Wash	A. 7859 Ch. a-6122 Civil 1257	Gordon Hansen Bruce Hartman	43- 1957 43-	45.40			Limited to the Irr. Require ments of 24.4375 acres Limited to the Irr. Require ments of 42.0375 acres
June 12 1914	6.0 Civil 5723	5/1 - 10/12 Civil 5723	Sand Wash	A. 5772 Cert. 2039	Sand Wash Irr. Co.	43- 3139	959.06 - 120.00 990.06 - 120.00 870.06 - 120.00	Set back 1964.0 Civil 5723	Original right amended by Civil 5723 Cert. 145371	
Sept 28 1916	10.0	4/1 - 10/31	Sand Wash	A. 6960 Cert. 2063	Dry Gulch Irr. Co.	43- 3159	1032.5			
Aug. 10 1926	0.78	3/15 - 10/31 Civil 1257	Sand Wash	A. 7282 Cert. 1567	Nathania J. Mitchell (Now Grant Hansen)	43- 3157	54.9			
Aug. 16 1926	0.50	4/1 - 10/31 Civil 1257	Sand Wash	A. 7345 Cert. 1618	George Potts (Now Leland Potts)	43- 3158	60.0			
Nov. 11 1926	0.60	3/15 - 10/15 Civil 1257	Sand Wash	A. 10011 Cert. 1654	Oscar Nelson	43- 3203	90.9			
Aug. 13 1926	30.0	3/1 - 11/30	Sand Wash	A. 17978 Election	Board of Water Resources	43- 3333	73,000.0			